IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 3474 OF 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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VIJAY BAHADUR RAMRUP MALLAH - Petitioner(s)
Versus
GUJARAT FISHERIES CENTRAL COOPERATIVE ASSOCIATION LTD. & ANR. - Respondent(s)

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Appearance :
Shri U.T. Mishra for Petitioner(s).
Shri Siraj R. Gori for Respondent(s) : 1.
Ms. Manisha Lavkumar, AGP for Respondent(s) : 2.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 14/08/2007

ORAL JUDGMENT

The petitioner has come to this Court with a submission that

under the award dated 12th February, 1998, the learned Labour Court directed that the petitioner be reinstated with back-wages and consequential benefits. However, the said award was set aside by the High Court, the matter was remanded back to the learned Labour Court and *vide* the award dated 14th September, 1998, the learned Labour Court, Ahmedabad again directed that the petitioner be reinstated with back-wages for the period from 10th April, 1986 to 31st December, 1988 and 12th April, 1991 till the reinstatement, with all other consequential benefits. The petitioner submits that despite the other award, the petitioner has been appointed as a fresh employee, which would appear from Annexure-C, Office Order dated 28th July, 1998. It is submitted that in view of the award made by the learned Labour Court, the petitioner was entitled to be reinstated and respondent No.1 could not appoint him as a fresh employee.

2. Shri Siraj Gori, learned Counsel for respondent No.1, however, submitted that the petitioner has been appointed in "Fresh Water Fisheries Division" and from the order dated 28th July, 1998, it does not appear that he has been appointed as a fresh employee. He also submitted that from the Annexure annexed with the reply filed by the respondent, it would clearly appear that the petitioner has been paid his back-wages, including the hike in the wages, which he got at the time

when he was in the services. According to him, there is no cause of action in favour of the petitioner and the petition deserves to be dismissed.

3. If the respondents are clear in their stand that the petitioner has been appointed in “Fresh Water Fisheries Branch/Department”, then, that would be end of the matter, but, in the reply filed by the respondent, they are not coming out with the straight case.

4. Taking into consideration that the petitioner had been paid all his back-wages, with the increments, which he received when he was in the services, and when he has been appointed in “Fresh Water Fisheries Department/Branch”, I hold that the petitioner's appointment is not as of a fresh employee, he has been reinstated on the post from where his services came to be terminated.

5. The petition is disposed of with the clarification above. Rule is made absolute. No costs.

[R.S.Garg, J.]

*kamlesh**